

West Virginia Insurance Commission
Private Passenger Automobile Insurance Review Standards Checklist
Personal Auto (01/05)

REVIEW REQUIREMENTS	REFERENCE	COMMENTS
FORMS		
Applications	REFERENCE	COMMENTS
Fee, filing	§33-6-34	The Filing Fee is \$50.00 per Form Filing.
Inclusions	WVIL (Informational Letter) 64	Include in the Submission: One Copy of the Filing, Cover Letter describing the nature of the filing (Include the Company's NAIC Number), Prepaid Return Mailing Label or Postage Paid Large Envelope.
Abstract	§114-67	File Appropriate Abstract. Available in Regulations-Series 67.
Filing Standards	REFERENCE	COMMENTS
Filing Requirements	§33-6-8(a)	No insurance policy form, no group certificate form, no insurance application form where written application is required and is to be made a part of the policy, and no rider, endorsement, or other form to be attached to any policy, shall be delivered or issued for delivery in WV unless it has been filed with and approved by the commissioner, except that as to group insurance policies delivered outside WV, only the group certificates to be delivered or issued for delivery in WV shall be filed for approval.
Time	§33-6-8(b)	Filing must be made not less than sixty days in advance of delivery.
Approval	§33-6-8(b)	After sixty days, a form is considered approved unless express approval or disapproval has been received from the commissioner.
Disapproval	§33-6-8(c)	The commissioner may at any time disapprove or withdraw an approval for a form. The commissioner shall state the grounds for withdrawal or disapproval.
	§33-6-9	Any form shall be disapproved under any of the following conditions: 1. The form is in violation of or does not comply with Chapter 33 of the West Virginia Code. 2. The form contains or references any inconsistent, ambiguous, or misleading clauses or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract. 3. The form has any title, heading, or other indication of its provisions which is misleading. 4. The purchase of such policy is being solicited by deceptive advertising. 5. The benefits provided therein are unreasonable in relation to the premium charged. 6. The coverages provided therein are not sufficiently broad to be in the public interest.
Exemptions	§33-6-8(d)	The commissioner may order exemption from these requirements under certain conditions.

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Basic Contents	§33-6-11	Must specify the names of the parties to the contract, the insurer's name, the subject of the insurance, the risks insured against, the time the insurance coverage becomes effective and the term during which such coverage continues, the premium, and the conditions pertaining to the insurance.
Additional Contents	§33-6-12	A policy may contain additional provisions if they are: <ol style="list-style-type: none"> 1. consistent with Chapter 33 2. required to be inserted by the laws of the insurer's domicile 3. necessary, because of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties 4. desired by the insurer and not prohibited by law nor in conflict with any provisions required to be included therein and which are considered reasonable and just.
Charter, Bylaws, Other Documents	§33-6-13	No policy shall contain any provision purporting to make any portion of the charter, bylaws, or other constituent document of the insurer a part of the contract unless such portion is set forth in the full policy.
Motor Vehicle Liability Policy Contents	§17D-4-12, §33-6-29, §33-6-31, §114-63-3	A motor vehicle liability policy (see references for more detail, especially §33-6-31): <ol style="list-style-type: none"> 1. Shall designate by explicit description all vehicles with respect to which coverage is thereby granted. 2. Shall insure the person named and any other person, as insured, using any vehicle(s) with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, operation, maintenance or use of the vehicle(s) within the U.S. or Canada. Limits exclusive of interest and cost shall be \$20,000 for bodily injury to or death of one person in one accident and \$40,000 for bodily injury to or death of two or more persons in one accident, and \$10,000 for bodily injury to or destruction of property of others in one accident. 3. Shall insure the person named against loss from liability for damages arising out of the use of any motor vehicle not owned him. 4. Shall state the name and address of the insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided in accordance with the coverage defined in Chapter 17D of the West Virginia Code. 5. Need not insure any liability under workers' compensation law on account of harm to an employee while engaged in the employment.

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Motor Vehicle Liability Policy Contents	§17D-4-12, §33-6-29, §33-6-31, §114-63-3	<p>6. Shall be subject to the following which need not be included in the policy:</p> <ul style="list-style-type: none"> a. The liability of the carrier shall become absolute whenever injury or damage covered by the policy occurs. The policy cannot be canceled or annulled as to such liability by an agreement between the insurance carrier and the insured after the occurrence of the injury or damage. No statement made by the insured or on his behalf and no violation of the policy shall defeat or void the policy. b. The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage. c. The carrier shall have the right to settle any claim covered by the policy, and if such settlement is made, the amount thereof shall be deductible from the limits of liability specified above. d. The policy, application, and any rider or endorsement shall constitute the entire contract between parties. <p>7. May also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy. This excess coverage shall not be subject to the provisions of Chapter 17D of the West Virginia Code.</p> <p>8. May provide that the insured shall reimburse the carrier for any payment the carrier would not have been obligated to make under the terms of the policy except for the provisions of Chapter 17D of the West Virginia Code.</p> <p>9. May provide for the prorating of the insurance thereunder with other valid and collectible insurance.</p> <p>10. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet the requirements.</p> <p>Any binder issued pending the issuance of a motor vehicle policy shall be deemed to fulfill the requirements for such a policy.</p>
Continuation of Coverage	§33-6-36, §114-38-5, §114-38-6, §114-38-7	<p>In the event of death, legal separation or termination of the marital relationship of the insured, the insured or spouse covered by a policy for two or more years shall, upon request of the insured or spouse within 30 days of the expiration of said policy, be issued his or her own individual policy providing the same coverage as the original policy through the same insurer without any lapse in coverage. The insured or spouse may elect to increase or decrease the amount of coverage in the new policy without affecting any privilege provided by this regulation. This does not apply to a policy cancelled, nonrenewed or terminated pursuant to the provisions outlined below.</p> <p>Insurers shall notify all insureds at policy issuance and upon any change or termination of the policy for any reason other than one listed below of the right of the insured or spouse to continue coverage.</p>

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Substandard Risk Notices	§33-6-31c, §114-37-4, §114-37-5, §114-37-7	<p>The application for a motor vehicle insurance policy to be written on the basis of a substandard risk rate schedule shall have printed directly thereon in a minimum 10 point bold-faced type in a contrasting color or in reverse print, a statement appearing on the front page of the application reading substantially as the statement presented in §114-37-4.1 and §33-6-31c(b).</p> <p>A motor vehicle insurance policy written on the basis of a substandard risk rate schedule shall have printed, in the same manner as above, on the policy a statement appearing on the policy jacket or the first page of the policy reading substantially as the statement presented in §114-37-5.1 and §33-6-31c(c).</p> <p>All insurers selling or which have in force substandard risk policies shall provide a one-time notice in writing to their substandard risk policyholders who have maintained continuous coverage for 3 years, have not been convicted of any moving traffic violations and had no at fault accidents, that they may be eligible for coverage under a standard or preferred policy. It shall read substantially as the notice presented in §114-37-7.2 and must be provided either by personal delivery or by regular mail.</p>
Signature	§33-6-15	Every policy shall be executed in the name of and on behalf of the insurer by its officer, attorney-in-fact, employee, or representative duly authorized by the insurer.
Non-WV Laws	§33-6-14	No policy may contain any condition, stipulation or agreement requiring such policy to be construed according to the laws of any other state or country, except as necessary to meet the requirements of the motor vehicle financial responsibility laws or compulsory disability benefit laws of such other state or country.
Legal Action Against Insurer	§33-6-14	No policy may contain any condition, stipulation or agreement preventing the bringing of an action against the insurer for more than six months after the cause of action accrues or limiting the time within which an action may be brought to a period of less than two years from the time the cause of action accrues in connection with all insurances. Any such condition, stipulation or agreement shall be void, but this shall not affect the validity of the other provisions of the policy.
Punitive Damages Exclusions	WVIL 101-A	Liability policies may provide coverage for the payment of punitive damages or exclude punitive damages from coverage.
Arbitration and Appraisal Provisions	WVIL 119-B, §33-6-31(g), §114-63	Arbitration and appraisal provisions are not required but if they are included the language must be equivalent to that set forth in WVIL 119-B. Arbitration provisions are not permitted in Uninsured or Underinsured motorists coverage.

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Uninsured Motorists	REFERENCE	COMMENTS
Uninsured/Under-insured Policy Requirements	§33-6-31, <i>WVIL</i> 2, <i>WVIL</i> 2-A, <i>WVIL</i> 14, <i>WVIL</i> 53, <i>WVIL</i> 84, §114-63-4, §114-63-5	Every policy shall contain an endorsement or provisions undertaking to pay the insured all sums which he shall be legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle, within limits which shall be no less than the requirements of §17D-4-2. The policy shall provide an option to the insured with appropriately adjusted premiums to pay the insured all sums which he shall be legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle up to an amount of \$100,000 because of bodily injury to or death of one person in one accident, in the amount of \$300,000 because of bodily injury to or death of two or more persons in one accident, and in the amount of \$50,000 because of injury to or destruction of property of others in one accident. Such endorsement or provisions may exclude the first \$300 of property damage resulting from the negligence of an uninsured motorist. The policy or contract shall provide an option to the insured with appropriately adjusted premiums to pay the insured all sums which he shall be legally entitled to recover as damages from the owner or operator of an uninsured or underinsured motor vehicle up to an amount not less than limits of bodily injury liability insurance and property damage liability insurance purchased by the insured without setoff against the insured's policy or any other policy. More details and special circumstances are provided in §33-6-31.
Uninsured/Under-insured Form Requirements	§33-6-31d, <i>WVIL</i> 121	The insurer must provide forms to a named insured upon application for insurance by either hand delivery or by mail with the first premium notice to an insured, and upon the request of any insured for different coverage limits. The required form is provided in Informational Letter 121.
Uninsured/Under-insured Excess	§33-6-31f, <i>WVIL</i> 130	Insurers issuing or providing liability policies that are of an excess or umbrella type shall offer uninsured and underinsured motor vehicle coverage on such policies in an amount not less than the amount of liability insurance purchased by the insured. The insured may decline any or all of this coverage. The required form is provided in Informational Letter 130. The forms must be provided by hand delivery or mail with the initial premium notice. Failure to return this form represents a rejection of the policy by the insured. The insurer shall make these forms available to any insured who requests different coverage limits.

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Claims	REFERENCE	COMMENTS
Crash Parts	§46A-6B-3, §46A-6B-6, <i>WVIL</i> 97	No insurance company may require the use of aftermarket crash parts when negotiating repairs of the motor vehicle with any repairer for a period of three years, the year the motor vehicle was manufactured and the two succeeding years thereafter, unless the motor vehicle owner consents in writing at the time of the repair to the use of aftermarket crash parts. Certain manufacturers will not warrant used OEM parts when used for repairs. Any violation of this is subject to the punishments outlined in Chapter 46A of the West Virginia Code.
Valuation	§33-6-33, §114-14-7, <i>WVIL</i> 55, 115, 123, 127	<p>The insurance company must use the most recent publication of an “Official Used Car Guide” approved by the Commissioner as a guide for setting the minimum value of the motor vehicle which is the subject of the claim. Any deviation downward must be supported by documentation that gives detailed information and any deductions must be measurable, discernible, itemized and specified concerning dollar amount, and they shall be appropriate in dollar amount.</p> <p>If the retail value of the motor vehicle is not published in the guide, the company must secure dealer quotations on the retail value of similar vehicles and base the settlement upon them. The offer must enable the insured to purchase the substantially similar vehicle for the case settlement and any deviation from this practice must be supported by documentation giving particular information about the condition of the motor vehicle. The source of the quotations must be maintained in the claim file.</p> <p>The company shall provide a reasonable written explanation to the concerned parties when case settlement offers are made. The explanation must specify the dollar amount of the base figure and identify the actual source. Any additions or subtractions from the base figure must be identified and explained.</p> <p>In addition to any cash settlement value agreed to, there must be added an amount equal to 5% of such cash settlement value, as reimbursement to the claimant for the excise tax imposed by the state (See also the Section on Unfair Trade Practices).</p> <p>A list of official used car guides is provided on the agency’s website at: www.wvinsurance.gov/consumer/pdf/total_loss_valuation.pdf.</p>
Repair Services	§3-6D-1, §33-6D-2	<p>No insurer may require the insured or any person making a claim to use a particular company or location in whole or in part.</p> <p>No insurer may engage in intimidation, coercion or threat for or against any insured or claimant to use a particular company or location in whole or in part. This shall not prohibit an insurer from entering into an agreement or arrangement with a company regarding automobile glass prices or services for the repair or replacement of automobile glass.</p>

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Cancellation & Nonrenewal	REFERENCE	COMMENTS
Cancellation – Permissible Reasons	§33-6A-1, <i>WVIL</i> 47	<p>Cancellation is allowed only for one or more of the following reasons (more complete explanations are available in the WV Code):</p> <ol style="list-style-type: none"> 1. The insured fails to make payments of premium. 2. The policy is obtained through material misrepresentation. 3. The insured violates any of the material terms and conditions of the policy. 4. The insured or any other operator either residing in the same household or who customarily operates an automobile insured under the policy: <ol style="list-style-type: none"> a. Has had his/her operator's license suspended or revoked during the policy period. b. Is or becomes subject to epilepsy or heart attacks and the individual cannot produce a certificate from a physician testifying to his/her ability to operate a motor vehicle. 5. The insured or any other operator (as above) is convicted of or forfeits bail during the policy period for any of the following: <ol style="list-style-type: none"> a. Any felony or assault involving the use of a motor vehicle. b. Negligent homicide arising out of the operation of a motor vehicle. c. Operating a motor vehicle while under the influence of alcohol or of any controlled substance. d. Leaving the scene of a motor vehicle accident in which the insured is involved without reporting it as required by law. e. Theft of a motor vehicle or the unlawful taking of a motor vehicle. f. Making false statements in an application for a motor vehicle operator's license. g. Three or more moving traffic violations committed within a period of twelve months, each of which results in three or more points being assessed on the driver's record by the DMV, whether or not the insurer renewed the policy without knowledge of the violations. <p>Notwithstanding any of the provisions of this section to the contrary, no insurer may cancel a policy of automobile liability insurance without first giving the insured thirty days' notice of its intention to cancel.</p>
Cancellation Void	§33-6A-2	Cancellations of a policy which has been in effect for sixty days and which has been renewed shall be void if not for a reason stated above.
Notification	§33-6A-3	The insurer must specify the reason(s) for cancellation in a cancellation notice.
Named Driver Exclusion Endorsement	§33-6-31(a), §114-63, §33-6A-4b(c), <i>WVIL</i> 53	If a policy is to be cancelled or nonrenewed for any of the permissible reasons, the policyholder may request that the individual who committed the violation be removed from coverage through a restrictive endorsement. If this request is made, the insurer must issue the restrictive endorsement and keep the policy in force.

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Nonrenewal- Method Election	§33-6A-4b	Each insurer must make an election whether to nonrenew policies under the enumerated statutory reasons (§33-6A-4), or based upon its own underwriting standards subject to a maximum nonrenewal limit of 1% of the insurer's business in a given year (§33-6A-4a).
Nonrenewal – Enumerated Permissible Reasons	§33-6A-4	<p>An insurer may nonrenew an outstanding automobile liability or physical damage insurance policy which has been in existence for two consecutive years or longer only for the following reasons:</p> <ol style="list-style-type: none"> 1. The insured fails to make payments of premium. 2. The policy is obtained through material misrepresentation. 3. The insured violates any of the material terms and conditions of the policy. 4. The insured or any other operator either residing in the same household or who customarily operates an automobile insured under the policy: <ol style="list-style-type: none"> a. Has had his/her operator's license suspended or revoked during the policy period. b. Is or becomes subject to a physical or mental condition that prevents the insured from operating a motor vehicle, and the individual cannot produce a certificate from a physician testifying to his/her ability to operate a motor vehicle. 5. The insured or any other operator (as above) is convicted of or forfeits bail during the policy period for any of the following: <ol style="list-style-type: none"> a. Any felony or assault involving the use of a motor vehicle. b. Negligent homicide arising out of the operation of a motor vehicle. c. Operating a motor vehicle while under the influence of intoxicating liquor or of any narcotic drug. d. Leaving the scene of a motor vehicle accident in which the insured is involved without reporting it as required by law. e. Theft of a motor vehicle or the unlawful taking of a motor vehicle. f. Making false statements in an application for a motor vehicle operator's license. 6. The named insured or any other operator is convicted of or forfeits bail during the policy period for two or more moving traffic violations committed within a period of twenty-four months, each of which occurs on or after the first day of July, two thousand four, and after the date that the insurer makes an election pursuant to §33-6A-4b. 7. The named insured or any other operator either residing in the same household or who customarily operates an automobile insured under the policy has had a second at-fault motor vehicle accident within a period of thirty-six months, each of which occurs after the first day of July, two thousand four, and after the date that the insurer makes an election pursuant to §33-6A-4b 8. The insurer ceases writing automobile liability or physical damage insurance policies throughout the state after submission to and approval by the commissioner of a withdrawal plan. <p>Nonrenewal of a policy for any reason is subject to a hearing and review as provided for in §33-6A-5.</p> <p>Notwithstanding the provisions of part 1 in this section, the insurer shall renew any policy that has not been</p>

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		<p>renewed due to the insured's failure to pay the renewal premium when due if:</p> <ol style="list-style-type: none"> 1. None of the other grounds for nonrenewal exist and 2. The insured makes an application for renewal within forty-five days of the original expiration date of the policy. <p>If a policy is renewed in this manner, then the coverage afforded shall not be retroactive to the original expiration date of the policy, but shall begin on the reinstatement date at the current premium levels offered by the company.</p>
Nonrenewal- Percentage Limitations	§33-6A-4b, <i>WVIL</i> 150	As an alternative to the nonrenewal provisions of §33-6A-4 (enumerated permissible reasons), an insurer may nonrenew based upon its own underwriting standards subject to a maximum nonrenewal limit of 1% of the insurer's business in a given year. Each insurer shall file with the Commissioner a copy of its underwriting standards. The total number of nonrenewal notices issued each year may not exceed one percent per year of the total number of policies in force in the state or in any given county except if the applicable percentage limitation results in less than one policy.
Cancellation & Nonrenewal	REFERENCE	COMMENTS
Information of Rights	§33-6A-1 through §33-6A-5	A company must indicate in the "notice of cancellation form" that the policyholder has the right to demand a reason for cancellation and/or to demand a hearing before the Commissioner. Also, a company must send a letter indicating all rights of an insured when a policy is cancelled or nonrenewed. A sample is given in <i>WVIL</i> 39.
DMV Notification	<i>WVIL</i> 32	The insurance company must provide a notice of cancellation to the Department of Motor Vehicles within 10 days of the effective date of cancellation whenever the company issues or causes to be issued a cancellation at any time during the policy period.
Declination – Prohibited Reasons	§33-6B-3	<p>The declination of an application for auto insurance is prohibited if the declination is:</p> <ol style="list-style-type: none"> 1. Based upon the race, religion, nationality or ethnic group of the applicant/insured. 2. Based solely upon the profession of the applicant/insured, unless the decision is for a business purpose that is not a mere pretext for unfair discrimination. This provision does not apply to any insurer, agent or broker that limits its market to one or several related professions. 3. Based upon the principal location of the insured motor vehicle unless the decision is for a business purposed that is not a mere pretext for unfair discrimination. 4. Based solely upon the age, sex or marital status of the applicant/insured, except that this subsection does not prohibit rating differentials based on these factors. 5. Based upon the fact that the applicant has previously obtained insurance coverage with a substandard insurance carrier. 6. Based upon the fact that the applicant has not previously been insured. 7. Based upon the fact that the applicant did not have insurance coverage for a period of time prior to the application. 8. Based upon the fact that the applicant/insured previously obtained insurance through a residual market insurance mechanism.

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		<p>9. Based upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the insured.</p> <p>10. Based solely upon an adverse credit report or adverse credit scoring.</p> <p>None of these provisions may be construed to prohibit the use of legitimate, documented underwriting data in making independent risk assessment.</p>
Notification – Declination	§33-3B-4	The insurer shall, within thirty days of the receipt of the application/request for coverage, provide the applicant reasons for declination.

Financial Institution Insurance Sales	REFERENCE	COMMENTS
Product Tying	§33-11A-8	Cannot require or imply that purchase of an insurance product is required as a condition of the lending of money or extension of credit. Cannot offer an insurance product in combination with other products unless all the products are available separately from the institution.
Disclosures	§33-11A-9	<p>Must prominently disclose to customers, in writing, in clear and concise language, and orally during any customer contact, that insurance offered, recommended, sponsored, or sold:</p> <ol style="list-style-type: none"> 1. Is not a deposit; 2. Is not insured by the federal deposit insurance corporation or, where applicable, the National Credit Union Share Insurance Fund; 3. Is not guaranteed by any insured depository institution; and 4. Where appropriate, involves investment risk, including potential loss of principal. <p>Must disclose to customers in writing, in clear and concise language, that the insurance product may be purchased from an agent or broker of the customer's choice and that this will not affect the customer's credit relationship with the person.</p> <p>Must obtain a written acknowledgment of receipt by the customer of such disclosures, including the date of receipt and the customer's name, address, and account number, prior to or at the time of any application for insurance sold by the person. This shall be in a separate document.</p> <p>The commissioner may grant a waiver of these requirements under certain conditions (see §33-11A-9).</p>
Insurance in Connection with a Loan	§33-11A-11	<p>Credit and insurance transactions must be completed independently and through separate documents.</p> <p>A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer.</p>

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Unfair Trade Practices	REFERENCE	COMMENTS
Unfair or Deceptive Practices	§33-11-4	<p>The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance (full definitions and explanations are available in the referenced sections):</p> <ol style="list-style-type: none"> 1. Misrepresentation and false advertising of insurance policies 2. False information and advertising generally 3. Defamation 4. Boycott, coercion and intimidation 5. False statements and entries 6. Stock operations and advisory board contracts 7. Unfair discrimination 8. Rebates 9. Unfair claim settlement practices 10. Failure to maintain complaint handling procedures 11. Misrepresentation in insurance applications
Standards for the Acknowledgment of Pertinent Communications	§114-14-5	<ol style="list-style-type: none"> 1. Acknowledgment of notices of claims – within 15 working days 2. Answer of inquiries from insurance department – within 15 working days 3. Replies to other pertinent communications – within 15 working days 4. Provisions of assistance to first party claimants – Provide necessary claim forms, instructions, and reasonable assistance within 15 working days of notification of a claim.
Adjustment of Partial Losses	§114-14-7.3	<p>The following subdivisions shall govern the conduct of insurers in the adjustment of partial losses (full explanations are available in §114-14-7).</p> <ol style="list-style-type: none"> 1. Insurers shall include the insured's deductible in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the insured, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense. 2. If an insurer prepares an estimate of the cost of the motor vehicle repairs, such estimate shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the insured and may furnish the names of one or more conveniently located repair shops that will perform the repair for the amount tendered. 3. If the insurer intends to exercise its rights to inspect damages prior to repair, it shall have 7 working days from the date of receipt of notice of loss to inspect the insured's damaged motor vehicle at a place and time reasonably convenient to the insured. Also, negotiation shall begin and a good faith offer of settlement shall be made within the aforesaid 7 day period.

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Adjustment of Partial Losses	§114-14-7.3	<p>4. If the insured's motor vehicle is repaired at a shop of the insurer's choice for a reasonable sum, the insurer shall at no additional cost cause the damaged vehicle to be restored to the condition it was in prior to the loss if the recommended repair shop does not so repair the damaged vehicle.</p> <p>5. Deductions for betterment and/or depreciation are permitted only for parts normally subject to repair and replacement during the useful life of the insured motor vehicle. These shall be limited to an amount equal to the proportion that the expired life of the part to be repaired or replaced bears to the normal useful life of that part. Calculations used must be included in the insurer's claim file.</p> <p>6. Deductions for previous damage or prior condition must be measurable, discernible, itemized and specified as to dollar amount, and such deductions must be included in the claim file.</p> <p>7. The insurer must mail or hand deliver proof of loss or payment within 10 working days after the insured has accepted the insurer's offer.</p> <p>If the insurer does not perform its own physical inspection, it is still bound by all applicable requirements.</p>
Adjustment of Total Losses	§114-14-7.4	<p>The following subdivisions shall govern the conduct of insurers in the adjustment of total losses:</p> <p>1. For a cash settlement:</p> <p>a. It must use the most recent publication of an "Official Used Car Guide" approved by the Commissioner and uniformly and regularly used by the company, as a guide for setting the minimum value of the motor vehicle which is the subject of the claim. Any deviation downward must be supported by documentation that gives detailed information and any deductions must be measurable, discernible, itemized and specified concerning dollar amount, and they shall be appropriate in dollar amount.</p> <p>b. If the retail value of the motor vehicle is not published in the guide, the company must secure dealer quotations on the retail value of similar vehicles and base the settlement upon them. The offer must enable the insured to purchase the substantially similar vehicle for the case settlement and any deviation from this practice must be supported by documentation giving particular information about the condition of the motor vehicle. The source of the quotations must be maintained in the claim file.</p> <p>c. The company shall provide a reasonable written explanation to the concerned parties when case settlement offers are made. The explanation must specify the dollar amount of the base figure and identify the actual source. Any additions or subtractions from the base figure must be identified and explained.</p> <p>d. In addition to any cash settlement value agreed to, there must be added an amount equal to 5% of such cash settlement value, as reimbursement to the claimant for the excise tax imposed by the state.</p> <p>2. If the insurer elects to replace the vehicle, the replacement vehicle must be an immediately available, substantially similar vehicle that is both furnished and paid for by the insurer, subject to the deductible, if any</p>

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Unfair Trade Practices	REFERENCE	COMMENTS
Adjustment of Total Losses	§114-14-7.4	<p>3. If the insured vehicle is a private passenger automobile of the current model year, meaning that it has not been superseded in the marketplace by an officially introduced succeeding model, the insurer shall utilize one of the following methods in the settlement of the loss, except where the method used would be detrimental to the interests of the insured compared with the methods described above:</p> <ul style="list-style-type: none"> a. The insurer shall pay to the insured the reasonable purchase price on the date of loss of a substantially similar vehicle, less any applicable deductible and an allowance for depreciation in accordance with an official used car guide which has been approved by the Commissioner and is used regularly by the insurer; or b. The insurer should furnish the insured with a substantially similar replacement vehicle, and charge the insured for any applicable deductible and for depreciation in accordance with the used car guide. <p>4. If the insurer makes a deduction for the salvage value of the insured vehicle, the insurer must furnish the insured with the name and address of a salvage dealer who will purchase the salvage for the amount deducted.</p> <p>All applicable provisions of Adjustment of Partial Losses also shall apply to the adjustment of total losses, except that the insurer shall be allowed an additional five working days to comply with the requirements set out in the above section. Any letter of explanation or rejection of any element of a claim shall contain the identity and claims processing address of the insurer, the insured's policy number and the claim number.</p>
Unreasonable Delay	§114-14-7.5	<p>If any element of a physical damage claim remains unresolved more than 15 working days from the date of receipt of proofs of loss by the insurer, the insurer shall provide the insured with a written explanation of the specific reasons for the delay in the claim settlement unless reasonable grounds exist to suspect fraud or arson. An updated letter shall be sent every 30 calendar days thereafter until all elements of the claim are either honored or rejected.</p>
Repair Estimates	§114-14-7.6	<p>If an insurer requires that its insured obtain an estimate(s) of vehicle damage, the insurer must pay the reasonable charges of such estimates.</p>
Notice of the Right to Reimbursement for Transportation Expenses	§114-14-7.7	<p>In the event of the theft of the entire vehicle, the insurer shall advise the insured of his right to be reimbursed for transportation expenses at the time of notification of loss. This notification must be confirmed in writing immediately after receipt of notice of theft. All conditions and benefits related to this coverage as stated in the policy must be contained in the notification.</p>

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Unfair Trade Practices	REFERENCE	COMMENTS
Standards for Prompt Investigations and Fair and Equitable Settlements Applicable to All Insurers	§114-14-6	<p>The following provisions are applicable to auto insurance except to the extent that the provisions are inconsistent with the above provisions.</p> <ol style="list-style-type: none"> 1. Investigation of Claims – Investigation must commence within 15 working days of receiving notice of the claim. Must provide a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant within 15 working days of receiving notice of the claim. 2. Offers of Settlement – In cases where there is no dispute over coverage or liability, it is the duty of the insurer to offer claimants amounts which are fair and reasonable as shown by its investigation of the claim, providing the amounts offered are within policy limits and provisions. 3. Denial of Claims – No insurer shall deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition or exclusion is included in the denial. 4. Records of Denial of Claims – If a denial is made by any other means than writing, an appropriate notation shall be made in the claim file of the insurer. 5. Notice of Necessary Delay in Investigating Claims – If the insurer needs more time with a claim, it shall notice the claimant in writing within 15 working days after receipt of the proofs of loss. If the investigation remains incomplete, the insurer shall send notification within 30 calendar days from the date of initial notification and every 30 calendar days thereafter. The letter shall contain a reason for additional time. 6. Liability of Others – Insurers must settle claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions. 7. Denial of Claims for Failure to Exhibit Property – No insurer shall deny a claim for failure to exhibit the insured property without proof of demand by the insurer and refusal by the claimant to exhibit the property. 8. Separation of Claims – If there is no dispute as to one or more elements of a claim, payment for such element(s) shall be made notwithstanding the existence of disputes as to other elements of the claim if payment can be made without prejudice to either party. 9. Time for Payment of Claims – Insurers must pay the amount agreed upon no later than 15 working days from the receipt of the agreement or from the date of the performance by the claimant of any condition set by such agreement, whichever is later. 10. Notice of Applicable Time Limitations – No person shall negotiate for settlement of a claim with a claimant who is neither an attorney nor represented by an attorney without giving the claimant written notice that the claimant's rights may be affected by a statute of limitations or a policy or contract time limit. Such notice shall be given to first party claimants 30 days and to third party claimants 60 days before the date on which the time limit may expire. 11. Avoidance of Payment – Where liability and damages are reasonably clear, no person shall recommend that third party claimants make claim under their own policies solely to avoid paying claims under an insurer's insurance policy or insurance contract. 12. Unreasonable Travel – No person shall require a claimant to travel unreasonably to inspect a replacement motor vehicle, to obtain a repair estimate or to have the motor vehicle repaired at a specific repair shop.

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RATING		
Rate Filing	REFERENCE	COMMENTS
Fee, filing	§33-6-34	The Filing Fee is \$75.00 per Rate Filing, and \$75 per Rule Filing.
Inclusions	WVIL (Informational Letter) 64	Include in the Submission: One Copy of the Filing, Cover Letter describing the nature of the filing (Include the Company's NAIC Number), Prepaid Return Mailing Label or Postage Paid Large Envelope
Basic Requirements	§33-20-4	Must file every manual of classifications, territorial rate areas established pursuant to §33-20-3(c)(2). Must file every manual, minimum, class rate, rating schedule or rating plan and every other rating rule and every modification of any of the foregoing which the insurer proposes to use for fire and marine insurance. Filing should state proposed effective date and indication of the character and extent of the coverage contemplated.
Abstract	§114-67	File Appropriate Abstract. Available in Regulations-Series 67.
Information for Support	§33-20-4(b)	Information furnished in support of a filing may include: 1. Experience or judgment of the insurer or rating organization making the filing 2. Experience or judgment of the insurer or rating organization in the territorial rate areas established by §33-20-3(c)(2) 3. Interpretation of any statistical data relied upon 4. Experience of other insurers or rating organizations 5. any other relevant factors
Rating Organizations	§33-20-4(c)	An insurer may, but is not required to, satisfy its obligation to make such filing by becoming a member of or a subscriber to a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf.
Filing Requirements for Members of Rating Organizations	§33-20-7(b), WVIL 54	If a member or subscriber deviates in any way from the approved rating organization filing, the insurer must make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance or a combination thereof. This application must specify the basis for modification and a copy must also be sent simultaneously to such rating organization. The commissioner will give consideration to the available statistics and the applicable principles for rate making as provided in §33-20-3. The following will be considered deviations: 1. Use of rates higher or lower than those approved for the rating organization. 2. Non-adoption of an approved rating organization filing. 3. Delay in the implementation of an approved rating organization filing. 4. Modification of a deviation currently in use.
Waiting Period	§33-20-4(e)	Each filing shall be on file for a waiting period of 60 days.

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Requirements	REFERENCE	COMMENTS
Disapproval	§33-20-5	<p>If a filing is not found to meet all requirements within the waiting period, the commissioner will send written notice of disapproval with a reason for disapproval.</p> <p>If at any time after the review period a filing is found not to meet all requirements, an order specifying a reason and a date when the filing is no longer effective.</p> <p>Any person, insurer, or rating organization may demand a hearing in response to a disapproval.</p> <p>All rate filings must meet all requirements set forth in Article 20, Chapter 33 of the West Virginia Code (§33-20).</p>
Rate Making	REFERENCE	COMMENTS
Provisions for Rate Making	§33-20-3, §33-20-17	<p>All rates shall be made in accordance with the following provisions:</p> <ol style="list-style-type: none"> 1. Due consideration must be given to past and prospective loss experience, to catastrophe hazards, to dividends, to past and prospective expenses, and to all other relevant factors within and outside West Virginia. 2. Rates must not be excessive, inadequate or unfairly discriminatory. 3. Manual, minimum, class rates, rating schedules or rating plans shall be made and adopted.
Reduction of Premiums for Persons 55 Years of Age or Older	§33-20-18, WVIL 37	<p>Any rates filed shall provide for an appropriate reduction in premium charges when the principal operator and spouse are 55 years old or older and who has successfully completed a motor vehicle accident prevention course approved by the DMV.</p> <p>The premium reduction shall be effective for 3 years after completion of an approved course, except that the insurer may require as a condition of maintaining the discount that the insured and spouse:</p> <ol style="list-style-type: none"> 1. Not be involved in an at fault accident. 2. Not be convicted, plead guilty or nolo contendere to a moving traffic violation or to a traffic related alcohol or narcotics offense. 3. Have maintained a driving record free of violations and liability for accidents for a 3-year period prior to course completion. <p>Upon successfully completing the approved course, each person shall be issued a certificate to be used to qualify for the premium discount.</p> <p>An insured shall only be entitled to a discount equal to the greater of the premium reduction required or any discretionary discount offered by insurers to persons 55 or older who have not completed the course.</p> <p>Each participant shall take an approved course every three years to keep eligibility for the reduction.</p>
Uninsured Motorist	§33-6-31a	Rates charged for minimum uninsured motorist coverage required shall be separate from the rates for the optional limits.
Handicapped Non-discrimination	§33-6-31b	No insurer may discriminate in any manner on the basis of a physical handicap in determining rates.